

**BOROUGH OF WIND GAP  
29 MECHANIC STREET  
WIND GAP, PA 18091  
863-7288  
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The Council meeting of the Borough of Wind Gap on Tuesday, July 12, 2011, was called to order at 7:30 p.m. by Council President, Scott Parsons, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: John Maher, Dave Hess, Kerry Gassler, Joe Weaver and Tony Curcio. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pysher and Borough Administrator Louise Firestone. Absent was Councilman George Hinton.

**PUBLIC COMMENT**

1. Robert Matlock appeared before Council to question why Officer Troy Dailey did not respond to his house regarding a car illegally parked in front of the house. Mr. Matlock took pictures to prove that the car did not have a current inspection sticker. Mr. Matlock indicated that he came down to the Borough Police Station to find an officer to file a complaint regarding this vehicle. Officer Dailey indicated that he would be by to view the vehicle, which was at approximately 8:30 p.m. Mr. Matlock waited until 9:30 p.m. and the officer did not arrive. He asked why his tax dollars are paying the salary of officers that don't want to do their job or just ride around the Borough doing nothing. Is this standard procedure not to have officers write tickets or enforce the law? Mayor Shoemaker stated that the officers are instructed to do their job and follow the procedures of law enforcement. Dave Hess added that this should be addressed through the Mayor and the Chief of Police and not through Council. Scott Parsons stated that now the Borough has their Civil Service Commission up and running and if necessary any disciplinary action taken will not take long to act upon. It is not Council's job to oversee the day to day operations of the Police Department. Council suggested that Mr. Matlock go through the Emergency 911 Center to have the call documented and then there would be an official recording of the times and specific complaint.

2. Jon Faust stated that he has been approached regarding the sales of the Ambulance building and the Firehouse and asked Council how he should redirect these inquiries. Scott replied that specific questions should be directed to John Maher.

Jon added that the Fire Company received notification that a Worker's Compensation claim was paid on behalf of the Fire Company, but no one in the Fire Company recognizes the individual filing the claim. The notification paperwork will be forwarded to Louise to follow up.

3. Patricia Sutter, Borough Tax Collector, stated that she was following up with regard with her request for charging \$5.00 for tax duplicate bill fee to mortgage company when they do not have the original bill and charging \$15.00 for a tax certification. Ron Karasek stated he drafted a resolution and was going to ask Council and Patricia to review.

4. Alex Cortezzo III requested an update on the progress as far as getting the sidewalks done and the road for the project on First Street. Brian stated that the developer has the black top down, but they still need the wearing course down. The sidewalks usually go in after the houses are built. Alex complained that there has been very little communication. Alex provided Brian with his phone

number and would like Brian to follow-up and report to him. Brian agreed that he will get in touch with Gibraltar Development and get a status update on the project.

## **COMMITTEE REPORTS**

1. EMS – Kerry Gassler reported that the Ambulance Corps meet next week.
2. Zoning – Tony Curcio reported that no Zoning Hearing Board will be held in August.
3. Planning - Scott Parsons reported that no Planning Commission meeting will be held in August.
4. Municipal Authority – John Maher reported that he attended the meeting on June 27, 2011 and there is nothing exceptional to report.
5. Streets – George Hinton was absent.
6. Police – Mayor Shoemaker reported that the Police Department responded to 108 calls for the month of June, they responded to 4 animal complaints, 9 motor vehicle accidents and the police issued 24 traffic citations and 5 parking tickets. Joe asked about vandalism/paint on the contractor's equipment at the Park and if it was reported to the Police. Chief Armitage indicated that it was reported. The Mayor stated that there was band in the Park late Sunday night and the officer on duty called the Mayor at 10:30 p.m. and asked if he should allow them in that late. The Park ordinances do not specifically include a curfew for the closing of the Park. The Park Board will be provided a copy of the ordinance for their review and then forward their recommendations to Council for consideration.
7. Park – Joe Weaver reported that the Park Board the Park Board does not meet until August. Joe stated that he has been in contact with Cathie Yob regarding the park project and other issues. Cathie was wondering if the fence will be replaced between the basketball courts and the tennis courts. Brian stated that there have been various opinions regarding the fence. It was suggested that the fence stay down for now and get a feel for the majority of users of the courts if the fence should be reinstalled. Brian stated that for this year it will probably remain down because of the heat of the paving and no vehicles should be on the surface yet. More posts will have to be purchased because some were damaged with the removal of the old posts. Joe reported that there have been several inquiries regarding the opening of the courts. Brian stated that the surface was just complete and that it needed to sit prior to any activity on the courts. The courts were opened tonight for the start of the Summer League Basketball League and will be open by the Street Department ever day. It was the decision of the Borough Engineer, the Police Chief and the contractor to hold off opening the courts because of the current heat spell, the installation of surveillance cameras, the repair to the timer on the lights and the replacement of burnt out lights. The courts will be locked at night to hinder vandalism and loitering John reported that the cameras are up and signs have been hung to notify that the premises is under surveillance.

Discussion regarding the operation of the surveillance cameras on the upper end of the Park.

**On motion** by Tony Curcio to fix the cameras and make them operational in the Park at a cost of a not-to-exceed amount of \$2,000 and seconded by Kerry Gassler. Roll call vote taken. In favor: T. Curcio, K. Gassler, D. Hess, J. Maher, S. Parsons. Opposed: J. Weaver. Motion carried with a vote of 5-1.
8. 911 – Tony Curcio had nothing to report.

9. Tipping Fees - Tony Curcio reported that a change to the balance of Administration Account because of the purchase of the Police server. The Administration Account balance is now \$24,562.92.

10. Property Maintenance Code – Scott Parsons reported that he provided a copy of the Property Maintenance Code to Council for review. Scott used Bangor Borough's Code as a guideline. Council asked for time to review the Property Maintenance Code prior to enactment. John Maher suggested putting a soft copy on the Borough website. Joe expressed concern regarding copyright infringement if the Code is put on the website. John to further investigate and report back to Council regarding the copyright issue. Scott stated that the Code only updates every several years. Joe asked about the Board of Appeals that is mentioned in the ordinance. Scott replied that the Slate Belt Council of Government has a Board of Appeals. Ron added that there would be another ordinance with an agreement to use the COG's Board of Appeals.

11. Building Finance Committee – John Maher reported that Council received of the realtor contracts, which was forwarded to Ron Karasek for his review. Ron sent a memo to Council dated July 12, 2011 with his recommendations for corrections. The contract is geared to the realtor, but the main areas of concern include signing the contract for one year, most people agree on 60 to 90 days, and if they are doing a good job sign for another 60 to 90 days. There are sections that require that the Borough pay their fee no matter who purchased, whether the realtor is involved in bringing that party to the table or not they would still be entitled to their commission. Council discussed whether to proceed with signing the agreement or try to sell the properties without a realtor and put this out to bid.

**On motion** by Dave Hess to get an appraisal done on the MSG property done by a certified appraiser and include RFP from brokers and seconded by Kerry Gassler. Roll call vote taken. In favor: K. Gassler, D. Hess, S. Parsons, J. Weaver, T. Curcio. Opposed: J. Maher. Motion carried with a vote of 5-1.

Ron stated that the Borough wants to obtain an appraisal to determine what fair market value would be. Ron could not find a provision anywhere in the Borough Code requiring that an appraisal be done prior to purchasing real estate. He contacted the Borough Solicitor's Association in Harrisburg, but has not received a return call yet. He suggested because the Borough is dealing with tax dollars that an appraisal be done. This is a professional service that probably does not have to be bid out, but it would be wise to contact as many as possible.

## **MAYOR'S REPORT**

Mayor Shoemaker reported that the Slate Belt Council of Government is on summer recess. The next meeting will be in September. He reported that the basketball and tennis court project has been completed. He looked into the purchase of a memorial for Derek Holland and the cost would be approximately \$350. Derek's mother donated \$250 toward the stone. He will try to obtain further funding from the Veteran's Association. He attended the Pen Argyl High School Awards Banquet and presented a \$300 scholarship to Brandi Van Patten. The funds came from donations for wedding ceremonies he performed and a donation from him. He hauled 37 loads of road millings that were donated to the Borough for use in the alleys and to fill potholes.

## **SOLICITOR'S REPORT**

Ron Karasek reported that all the matters being handled by his law office for the Borough during the month of June are outlined in a report. The report includes the meetings attended as Borough Solicitor.

**Subdivision Matters:** Preparation of Official Action Correspondence on NAPER Development Subdivision/Lot Line Adjustment – Preliminary and Final Plan.

**Land Development Matters:** N/A.

**Zoning and Other Land Use Matters:** June 15, 2011 – Meeting with Borough officials and preparation of comprehensive Memo to file re: Zoning Ordinance changes involving Certificate of Occupancy, Home Occupation and Clear Sight Triangle.

**Developments on Outstanding Litigation:** Receipt, Review and Administration of e-mail from Sprint's attorney, Review of revisions to Stipulation of Counsel, Review of Correspondence from PPL's attorney, participation in Telephone Status Conference with County Judge and Preparation of responsive e-mail to Sprint's attorney re PPL Cell Tower Lawsuit.

**Court Decisions on Borough Cases:** N/A.

**Miscellaneous:** Receipt, Review and Administration of fax transmission re: Brown Daub Site Plan, Telephone Conversation with Borough Administrator and Preparation of Planning Commission agenda and fax transmission to Borough. Receipt, Review and Administration of Right to Know Law (RTKL) Request, Review of RTKL, Legal research and preparation of comprehensive fax transmission to Borough Administrator re Frassetto Signature Information Solutions, LLC RTKL Request for Tax Records. Preparation of Street Opening Ordinance as revised by Borough Street Committee. Review of three Resolutions in Preparation for regular monthly workshop meeting of Borough Council. Review of file, Legal Research, Preparation of the template for the Suspension without Pay Notice from Mayor to Officer T. Dailey and Receipt, Review and Administration of and responsive e-mails to Attorney W. Barish (Borough's insurance attorney) with fax transmission to Borough and e-mail transmission to Attorney W. Barish. Legal research and preparation of comprehensive status correspondence to Borough re Police Chief Act and Police Chief Raise. Preparation of Monthly Solicitors Report. Review various correspondence, subdivision and land development review letters, prepare correspondence, prepare extension agreements and approval forms for subdivision and land development matters and make and receive telephone calls.

**Outstanding Items:** Dentith storm water counterclaim (filed in response to Borough's injunction lawsuit and request for Borough's expenses) – no action taken and remains pending. Ordinance for loitering, begging and panhandling – pending but inactive. Ordinance for reimbursement of equipment, materials and supplies in responding to environmental, hazardous, safety or rescue events (police, fire or both?) – pending but inactive.

He has prepared the ordinance to repeal Ordinance 81. There are some provisions that he recognized have to be changed.

The deeds for the West Street property have been recorded. He will need to file the necessary paperwork for exemption from taxation if the County notifies him.

He met with Borough Officials: Borough Engineer, Borough Zoning and Councilman Tony Curcio to review potential changes to the Zoning Ordinance related to the certificate of occupancy, home occupation, and clear site triangle. He is asking for direction from Borough Council.

He made changes to the Street Opening Ordinance and will have Council review these changes.

He talked about the tax collector resolution and needs to review.

Ron asked for a five minute Executive Session related to a personnel matter.

The Brown Daub zoning issue has become a mute point because it was discovered that the property was zoned ISC already, but was never changed on the zoning map.

The Borough will not have to pay for anything related to the cell tower, not to move it, not to reinstall it, they have agreed to move or replace it if necessary.

**On motion** by Kerry Gassler to approve the stipulation on the PPL Cell Tower and seconded by Tony Curcio. Roll call vote taken. Motion carried unanimously.

## ENGINEER'S REPORT

Brian Pysher reported the ad for paving of Oak and Genoga will be out for bid this week. He anticipates awarding this project at the next meeting.

The Municipal Authority completed their project in F Alley. John Maher stated that the alley has been stoned and rolled and that is the completion of their project. Scott stated that Council asked for \$6,000 for what was owed on the project last year (\$4,400) and an additional \$1,600 for the estimate to pave F Alley. Brian asked if this paving should be included in the Oak and Genoga street paving bid specs. Council decided to include this item as a separate line item.

Handicap ramp permits for paving Park, Utica and Lehigh have been submitted to PennDOT and hopefully will be approved for paving next year.

A Community and Development Block Grant application was submitted to the County for paving on Washington, Mechanic, Lincoln, and Jefferson in the amount of \$204,000.

The Park project is almost 99% done. Muschlitz has to complete the installation of topsoil. Brian asked Council if they want the rock that was dug out by the handicap parking spaces to be left there or removed. Council decided that it should be removed. Dave Albanese has looked at the lighting on the basketball courts and the tennis courts to have the timer properly set. Brian reported that during the heavy rain the drainage system seems to working as designed.

Kerry asked about the bus shelters. Brian reported that a meeting was held with Met-Ed to get an estimate for the cost of lighting the shelters. The power should go underground and a separate meter base box would have to be installed.

## NEW BUSINESS

1. Approve Medicare Payment for F/T Police Officers - \$8,427, IRS Audit of Calendar Years of 2009 and 2010. Louise explained that the IRS is in the process of completing an audit on the Borough. Preliminary findings include paying the contribution for Medicare for full-time police officers. Police Officers are exempt from contributing to Social Security, but not Medicare if they were hired after March 31, 1986. The Mandatory Medicare provisions per Internal Revenue Service Code Section 3121(u) apply to the Law Enforcement personnel who are under a separate public retirement system. The provisions apply to those individuals hired subsequent to March 31, 1986. The applicable percentage rate for the employee and employer Medicare is 1.45%. The total assessment, therefore is 2.9%. This includes the employee and employer share. If this amount is paid immediately no interest or penalty will be charged. Payroll has already been adjusted to withhold Medicare contributions by the employees. The auditor has not completed his audit and will forward further findings. Scott stated that the Borough is paying for the employee contribution, but the Borough will pay their share at this time.

**On motion** by Kerry Gassler to pay \$8,427.00 to the Internal Revenue Service for calendar years 2009 and 2010 for Medicare contribution and seconded by John Maher. Roll call vote taken. Motion carried unanimously.

2. Ron Karasek stated that the Property Maintenance Code includes a fine of \$1,250, but the Borough Code only allows a fine of a maximum of \$1,000.

3. Scott Parsons asked about the Right to Know update on the Borough website. Louise stated that the correction has been made.

## APPROVAL OF MINUTES

**On motion** by Kerry Gassler to approve the minutes of the June 21, 2011 meeting and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously

## **APPROVAL OF EXPENSES**

**On motion** by Tony Curcio to approve the expenses of June 2011 in the amount of \$54,440.78 and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

**On motion** by Tony Curcio to adjourn the meeting of July 12, 2011 and seconded by John Maher. Council agreed unanimously.

The meeting of July 12, 2011 adjourned at 9:27 p.m.

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Louise Firestone, Borough Administrator